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Avery Dennison Corporation*

UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

ADASA INC.,

Plaintiff,
Counterclaim Defendant,

v.

AVERY DENNISON CORPORATION,

Defendant,
Counterclaimant.

Case No.: 6:17-cv-01685-MK

**JOINT STIPULATION REGARDING
TRIAL PROCEDURES**

The parties have jointly stipulated that certain procedures be followed for trial, pending approval by the Court.

I. PROPOSED TRIAL PROCEDURES

A. Identification of Witnesses

The parties shall provide a list identifying the specific witnesses that they intend to call on direct, and the order in which they will be called (both live and by deposition), by 7:00 pm the day before they intend to call those witnesses at trial. The offering party shall provide notice to the other party of any update or change of the names and order of witnesses to be called (both live and by deposition) as promptly as possible. Any such update or change shall not be used to identify a witness in the first instance absent agreement of the parties or good cause.

B. Procedures Regarding Testimony to Be Presented by Deposition

Each party will provide the specific deposition excerpts (which must have been included in the deposition designations submitted herewith) that it intends to introduce by 7:00 pm the night before the start of the trial day on which that witness' testimony will be offered. The other side must identify any objections and counter-designations to the designated testimony (which must have been included in the deposition designations submitted herewith) by 9:00 pm. The parties shall meet and confer as to any objections no later than 10:00 pm on the day the objections are identified. Any unresolved objections between the parties shall be heard by the Court either before the jury is brought in for the beginning of the trial day or on a break prior to the use of the deposition testimony.

When the witness is called to testify by deposition at trial, the party calling the witness shall provide the Court with two copies of the transcript of the designations and counter-designations that will be read or played.

For those depositions that have been recorded by video, a party may introduce the deposition excerpt by video instead of by reading the transcript into the record. If a party opts to introduce deposition testimony by video, any counter-designations of that same witness's deposition testimony must also be introduced by video.

C. Trial Exhibits

At some point before or immediately after the completion of the witness' testimony, any party that has used an exhibit with the witness and wishes that exhibit to be admitted into evidence must formally move the exhibit into evidence, by exhibit number. Any document not offered into evidence may still be used at trial for the purpose of cross-examination, impeachment, refreshing recollection, rehabilitation, or other purpose, if otherwise competent for such purposes. Exhibits to which an objection has been raised may not be published, displayed, or otherwise shown to the jury until after they have been admitted into evidence, except that exhibits may be shown to the jury during the parties' opening statements. Once admitted, counsel may publish exhibits to the jury without requesting to do so.

Notwithstanding any objections currently specified on the joint exhibit list (ECF No. 288), any trial exhibit that is currently listed on the joint exhibit list (ECF No. 288) and that was produced in discovery by a party that on its face appears to have been authored by an employee, officer, or agent of the party producing such document in the ordinary course of business and within the scope of such person's responsibilities, shall be deemed a true and correct copy of a business record or other form of document maintained in that party's files as of the date of the party's document collection under Federal Rules of Evidence 803(6) and/or 901 unless the parties have made previous hearsay objections to such an exhibit in ECF No. 288.

A party will provide written notice to the other side of the exhibits to be used in connection with direct examination of a witness by 7:00 p.m. the day before their intended use. If there are any continuing objections from the opposing side, they will be provided no later than 9:00 p.m. the night before their intended use. If objections are provided, the parties will meet and confer no later than 10:00 pm the same night to resolve the objections. If good faith efforts to resolve the objections fail, the objecting party shall bring its objections to the Court's attention prior to the witness being called to the witness stand. There is no requirement to identify cross-examination exhibits prior to cross-examination.

D. Demonstrative Exhibits

The parties will exchange demonstratives to be used in opening statements by 7:00 p.m. the night before opening statements. The parties will provide any objections to such demonstratives by 9:00 p.m. that same night.

A party will provide demonstrative exhibits to be used in connection with direct examination by 7:00 p.m. the night before their intended use, and objections will be provided no later than 9:00 p.m. the night before their intended use. If objections are provided, the parties will meet and confer no later than 10:00 pm the same night to resolve the objections. If any of the demonstratives change after the deadline, the party intending to use the demonstrative will promptly notify the opposing party of the change(s).

The party seeking to use a demonstrative will provide a color representation of the demonstrative to the other side in PDF form. However, for demonstratives that cannot be provided in PDF form, such as video or animations, the party seeking to use the demonstrative will provide it to the other side on a DVD, CD, or other appropriate medium (including by file transfer). For

irregularly sized physical exhibits, the party seeking to use the demonstrative will provide a color representation as a PDF of 8.5 x 11 copies of the exhibits.

This provision does not apply to demonstratives created during testimony or demonstratives to be used for cross-examination, neither of which need to be provided to the other side in advance of their use. In addition, blow-ups or highlights of exhibits or parts of exhibits or testimony are not required to be provided to the other side in advance of their use.

If good faith efforts to resolve objections to demonstrative exhibits fail, the objecting party shall bring its objections to the Court's attention prior to the opening statements or prior to the associated witness being called to the witness stand. Failure to comply with these procedures, absent an agreement by the parties and approval by the Court, will result in waiver of the use of a demonstrative exhibit or waiver of any objections to the demonstrative exhibit.

DATED: April 27, 2021

Respectfully submitted,

By: /s/ Alan J. Thayer

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CERTIFICATE OF SERVICE

I hereby certify that I caused a true and correct copy of this JOINT STIPULATION REGARDING TRIAL PROCEDURES to be served upon all counsel of record to this matter on this 27th day of April, 2021 via the Court's CM/ECF system.

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DATED this 27th day of April, 2021.

By: /s/ Brenna K. Legaard
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